

## UNITED STATES DEARTMENT OF COMMERCE Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED	INVENTOR		ATTORNEY DOCKET NO., 10
08/895,514	06/23/97	GARDNER		C 95	5-004M
·		<b>-</b> -	$\neg$		EXAMINER
CONRAD O GARDNER UNITE 2202 121 VINE STREET SEATTLE WA 98121		PM82/0505	•	MAR, M	
			• •	TINU TRA	PAPÉR NUMBER
				3619	37
				DATE MAILED:	DATE MAILED:: 06/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

11





Application No. 08/896,514 Applicant(s)

Conrad O. Gardner

Office Action Summary Examiner

Group Art Unit

	Michael Mar	3819
X Responsive to communication(s) filed on May 2, 2000		•
This action is FINAL.		
Since this application is in condition for allowance exce in accordance with the practice under Ex parte Quayle,	1935 C.D. 11, 455 O.G. 210.	
A shortened statutory period for response to this action is is longer, from the mailing date of this communication. Fa application to become abandoned. (35 U.S.C. § 133). Ex 37 CFR 1.136(a).	idince to responsi Within the Deli	DO JOI JESPOTISE 14111 AGEES 1114
Disposition of Claims		_
X Claim(s) 30-41 and 46-61	is/arc	e pending in the application.
Of the above, claim(s) 30-33		
Claim(s)		
X Claim(s) 34-41 and 46-61		is/are rejected.
Claim(s)		is/are objected to.
Claims	are subject to restri	ction or election requirement.
☐ See the attached Notice of Draftsperson's Patent D ☐ The drawing(s) filed on is/are ☐ The proposed drawing correction, filed on ☐ The specification is objected to by the Examiner. ☐ The oath or declaration is objected to by the Examiner.	objected to by the Examiner. is ppproved	Edisapproved.
Priority under 35 U.S.C. § 119  Acknowledgement is made of a claim for foreign p  All Some* None of the CERTIFIED co  received.  received in Application No. (Series Code/Ser	ples of the priority documents	
received in this national stage application from	m the International Bureau (PC	 Г Rule 17-2(a)).
*Cortified copies not received:		
Acknowledgement is made of a claim for domestic	priority under 35 U.S.C. § 115	)(e).
Attachment(s)  Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, P Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, Notice of Informal Patent Application, PTO-152		
SEE OFFICE ACTIO	ON ON THE FOLLOWING PAGES -	<u>.</u>

U. S. Patent and Trademark Uffice

Office Action Summary

Part of Paper No. 37



Application/Control Number: 08/896,514

Page 2

Art Unit: 3619

## DETAILED ACTION

## Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112: 1.

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 61 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing 2. to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Due to the omission of lines 3-8 from original claim 61, amended claim 61 now lacks antecedent basis for the recitations "power transfer means for transferring an output power of said engine" and "power transfer means for transferring an output power of said electric motor".

## Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982), In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Art Unit: 3619



Application/Control Number: 08/896,514

Page 3

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

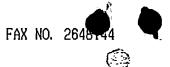
- 4. Claims 34-41 and 46-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,301,764.

  Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences between the claims are not considered to be patentable differences and would have been obvious to one having ordinary skill in the art. They are also not considered to be patentably distinct since the claims in the patent are drawn to the same elected specie as the claims in the pending application.
- 5. The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to *Group Art Unit 3619*.
- 6. Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 2023 l





Application/Control Number: 08/896,514

Page 4

Art Unit: 3619

or faxed to:

(703) 308-2571

(for formal communications intended be entered)

(all informal communications should be labeled "PROPOSED" OR "DRAFT")

or hand delivered to:

Crystal Park 5, 2451 Crystal Drive, Arlington, Virginia 22202 Seventh Floor(receptionist)

Any inquiry concerning this communication or earlier communications from the examiner 7. should be directed to Michael Mar at telephone number (703) 308-2087, or by e-mail to: michael mar@uspto.gov

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

MICHAEL MAR

Michael Men

Primary Examiner

M.Mar

6-4-2000